

<b>Contents</b>	<b>Page</b>
Remember to ask your clients about use tax. They may owe on out-of-State purchases.	2
TOP 10 personal income tax errors that delay return processing – 2008	3
TOP 10 business entity tax errors that delay return processing – 2008	5
CSEA Annual State Agencies Liaison Meeting in Sacramento	6
Record keeping requirements	7
Third party designee	9
Changes for businesses	9
Guidelines for claiming head of household	11
AVAILABLE NOW: Our Limited-Term 2008 Nonresident Withholding Incentive Program	12
Inside FTB	
• Tax Practitioner's Hotline Unit	13
• Package X discontinued second notification	14
Criminal Corner	14

## Remember to ask your clients about use tax. They may owe on out-of-State purchases.

It's income tax time again and that means it's also time to discuss with your clients how they can report and pay [use tax](#) on their state income tax return for out-of-state purchases made during the 2008 tax year. By doing so, you may help them avoid penalties and interest on use tax that has not been previously reported and paid to the Board of Equalization (BOE).

Use tax is intended to protect California vendors who would otherwise be at a competitive disadvantage when out-of-state vendors make sales to California customers without charging tax. While sales tax is owed to BOE by the seller, the purchaser is generally responsible for payment of use tax. The use tax rate is the same as your local sales tax rate. Visit the [BOE website](#) for more information.

### How do I determine if my clients owe use tax?

Use tax applies to purchases from out-of-state or foreign vendors. In general, your clients must pay California use tax on these purchases (made on the Internet, by telephone, by mail, or in person) if both of the following occur:

- The vendor does not collect California sales or use tax.
- Your client uses, gives away, stores, or otherwise consumes the item in this state.

Generally, use tax is due on purchases from out-of-state or foreign vendors if the purchase of the same item in California would be subject to sales tax. However, not all items are subject to tax. Please see BOE [Publication 112](#), *Purchases from Out-of-State Vendors* for additional information. If the out-of-state vendor charges California tax, you should advise your clients to keep the receipt showing the tax for their records.

Some out-of-state vendors may apply tax at the "statewide rate" (currently 7.25 percent), but your clients are liable for use tax at the [full rate](#) in effect for the California location where they first use the merchandise. When that location is within a [special tax district](#), the full tax rate in effect for the district applies (statewide tax rate plus district tax rate[s]). If the vendor charged tax at a rate lower than the rate in effect at your client's location, your client will generally owe the remaining use tax.

The first \$800 of tangible personal property that is both purchased from a vendor in a foreign country and **personally hand-carried** into California from the foreign country within any 30-day period is exempt from use tax. This exemption does not apply to property mailed or shipped to your client from a foreign country.

### How can my clients report and pay use tax?

They can report and pay use tax on their California income tax returns. This makes it easy for consumers, and businesses that are not required to have a [California seller's permit](#) with BOE, to report and pay use tax on their out-of-state purchases. Additional use tax information is included in FTB tax instruction booklets.

As an alternative, use tax may be reported and paid directly to BOE on a separate use tax return. If you wish to use this alternative, you can download BOE [Publication 79-B, California Use Tax](#), from the BOE website, or request that a copy be mailed to you by contacting their Customer Service Representatives at **800.400.7115**.

If your client is required to have a seller's permit, they cannot report business-related use tax on their state income tax return or on the tax return in Publication 79-B. They must timely pay the use tax on line two of their sales and use tax return for the period that includes the date when they first used, stored, or consumed the item in California.

Use tax on aircraft must be reported on the use tax return contained in BOE [Publication 79-A, Aircraft and California Tax](#). Use tax on documented vessels must be reported on the use tax return contained in BOE [Publication 79, Documented Vessels and California Tax](#). Use tax owed by your clients for these purchases cannot be reported on their California state income tax return or on the use tax return in Publication 79-B.

### How do I get additional information?

In addition to the Internet links included in this article, BOE provides a [California Use Tax Information](#) website. You may also phone BOE Customer Service Representatives with questions at **800.400.7115** from 8 a.m. to 5 p.m. Pacific time, Monday – Friday, except state holidays. TDD service for the hearing impaired is available from TDD phones at **800.735.2929** or from voice phones at **800.735.2922**. Income tax information is not available through any of these phone numbers.

Your business clients will find important information about use tax in BOE [Publication 123, California Businesses: How to Identify California Use Tax Due](#).

## TOP 10 personal Income tax errors that delay return processing – 2008

CATEGORY	ERROR	SOLUTION
<b>Income</b>	Incorrect adjusted gross income amount (Rank 5/10)	Check adjusted gross income amount on Line 16 of Form 540 2EZ, Line 17 of Form 540A, 540, or 540NR to ensure correct amount is used or computed correctly.
<b>Deductions</b>	Incorrect standard or itemized deduction amount used based on filing status (Rank 2/10)	See Line 18 of Form 540A, 540, or 540NR for correct standard deduction amount or instructions and worksheet for correct itemized deduction amount.

<b>Tax</b>	Incorrect total tax amount computed which can affect computation on any applicable schedule (Rank 3/10)	Check total tax amount on Line 21 of Form 540 2EZ, Line 34 of Form 540A or 540, or Line 42 of Form 540NR to ensure amount is computed correctly. Check any affected schedule to ensure amount is correctly transferred over.
	Incorrect total tax amount computed because of an error in calculating total tax or total credits (Rank 4/10)	1) Check total tax amount on Line 21 of Form 540 2EZ, Line 34 of Form 540A or 540, or Line 42 of Form 540NR to ensure amount is computed correctly. 2) Check total credits on Line 20 of Form 540 2EZ, Line 29 of Form 540A or 540, or Line 36 of Form 540NR (long form) to ensure amount is computed correctly.
<b>Payments and Credits</b>	Estimated tax payment amount claimed is different from total amount received (Rank 1/10)	Check personal tax records for estimated tax payments made to the <b>Franchise Tax Board</b> . Also, check Line 46 on last year's Form 540A or 540 or Line 53 of Form 540NR (long form) to verify amount requested to be applied to this year's estimated tax is correct. Corrections made to last year's state tax return can affect total amount paid for this year. Refer to any FTB notice received that shows these adjustments. Verify estimated tax payments on our website at <a href="http://ftb.ca.gov">ftb.ca.gov</a> under <b>MyFTB Account</b> .
	Incorrect total tax amount computed based on adjusted gross income (AGI), filing status, or dependents (Rank 6/10)	1) Confirm correct filing status is used. 2) Check dependents claimed on Line 10 of Form 540A, 540, or 540NR to ensure correct number of dependents is used, all names are listed, and amount is computed correctly. 3) Check CA AGI Line 17 Form 540A, 540, or 540NR to ensure correct amount is computed.
	Incorrect total tax amount used based on incorrect total exemption amount transferred, incorrect exemption number or amount computed, or incorrect total exemption amount claimed based on adjusted gross income (Rank 7/10)	1) Check exemption credit amount on Line 21 of Form 540A or 540, Line 26 of Form 540NR (short form), or Line 25b of Form 540NR (long form) to ensure correct amount is transferred from Line 11 of Form 540A, 540, or 540NR. 2) Check exemptions to ensure correct number is used and check amount on Line 11 of Form 540A, 540, or 540NR to ensure amount is computed correctly. 3) If federal AGI amount on Line 13 of Form 540A, 540, or 540NR is greater than \$163,187, see instructions for Line 21 of Form 540A or 540 to claim correct amount.

	Incorrect estimated tax amount requested to be transferred to next year's taxes (Rank 8/10)	Corrections made to this year's tax return can affect total estimated tax payment amount claimed for next year. Refer to any FTB notice received that shows these adjustments. Verify estimated tax payments on our website at <b>ftb.ca.gov</b> under <b>MyFTB Account</b> .
	Excess State Disability Insurance (SDI) or Voluntary Plan Disability Insurance (VPDI) amount claimed was not substantiated based on Form W-2 or other wage document attached to return (Rank 10/10)	See instructions for Line 39 of Form 540 or Line 46 of Form 540NR (long form) then determine if excess SDI or VPDI applies. If yes, be sure to attach appropriate document to substantiate amount claimed.
<b>Amended Return</b>	Original refund amount received does not match original refund amount shown on amended return (Rank 9/10)	Check original refund amount on Line 28 of Form 540 2EZ, Line 66 of Form 540A or 540, or Line 73 of Form 540NR to put on amended return. Exception: If refund was adjusted after original return was filed, use adjusted refund amount on amended return.

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## TOP 10 business entity tax errors that delay return processing – 2008

CATEGORY	ERROR	SOLUTION
<b>Forms</b>	Incorrect math calculations, or incomplete or missing documents (Rank 1/10)	Verify all math calculations when completing forms, schedules, or worksheets. Attach appropriate documents as needed. Calculation errors and/or missing documents can delay processing of tax returns.
	Return account periods overlap (Rank 2/10)	Consistently use the same account period. If the period changes, FTB must directly approve the change in most cases.
	Multiple tax returns filed for the same account period (Rank 7/10)	Check business records before sending duplicates of the original return. File only one original return for each account period. Allow three to six months to process original returns. When filing an amended return, use Form 100X to amend Form 100, 100W, or 100S, or mark the <b>Amended Return</b> box in upper right corner on Form 565 or 568.

	Amended returns not clearly identified as amended (Rank 8/10)	Use Form 100X to amend Form 100, 100W, or 100S, or mark the <b>Amended Return</b> box in the upper right corner on Form 565 or 568.
	Using an incorrect form for the tax year account period indicated on the return (Rank 10/10)	Use the correct tax year form for the tax year filed. For fiscal filers, use the form for the year the fiscal period began (e.g., use the 2008 form if the fiscal year began in 2008).
	Limited Liability Companies (LLCs) filing incorrect forms (Rank 9/10)	Partnership LLCs organized in CA, registered with the CA Secretary of State (SOS), or doing business in CA must file Form 568. Partnership LLCs <b>not</b> organized in CA, <b>not</b> registered with the CA SOS, and <b>not</b> doing business in CA but receive CA source income, must file Form 565. LLCs classified as a corporation must file Form 100 or 100S.
<b>Identification</b>	Omitting or using incorrect entity identification numbers (Rank 3/10)	Corporations use either the 7-digit CA Corporation Number or the 7-digit FTB assigned number <b>and</b> 9-digit Federal Employer Identification Number (FEIN). Partnerships use the FEIN. LLCs use either the 12-digit CA SOS File Number or the 9-digit FTB assigned number <b>and</b> FEIN.
	Incomplete entity name (Rank 4/10)	Use the <b>exact</b> legal entity name used to incorporate, qualify, or register with the SOS. If not registered with SOS, use the full legal entity name on all documents and also include <i>Doing Business As (DBA)</i> , if applicable. Use <b>exact</b> entity name as listed on documents previously sent to FTB. Include all periods, commas, spacing, etc. in name.
<b>Payments</b>	Incorrect payment amount claimed (Rank 6/10)	For all payments, include the correct entity identification number, exact legal entity name, and account period for the payment.
	One lump sum payment sent for multiple entities, or multiple payments sent in the same package/envelope (Rank 5/10)	Mail all payments individually for separate entities and account periods. Be sure all payments include the correct entity identification number, exact legal entity name, and account period for the payment.

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## CSEA Annual State Agencies Liaison Meeting in Sacramento

In September 2008, the California Society of Enrolled Agents hosted the CSEA/State Tax Agencies Liaison Meeting in Sacramento. CSEA members met with representatives from Employment Development Department, State Board of Equalization, and FTB.

The entire afternoon session was dedicated to FTB. FTB's Executive Officer Selvi Stanislaus provided a brief overview of activities and stated that FTB values its relationship with CSEA so much that they came to the meeting in force. Over a dozen FTB staff were in attendance. A Legislative Update presentation followed as Legislative Services Assistant Bureau Director Patrice Gau-Johnson provided an overview of the legislation enacted in 2008, including several budget trailer bills.

Filing Division Chief Anne Miller provided a presentation on the upcoming 2008 filing season and gave an overview of what is ahead for 2009. Individual & Special Audit Bureau Director Rafael Ixta provided an update as well.

The day ended with FTB staff responding to previously submitted questions by CSEA members and entertaining additional questions from the audience.

Early feedback indicates the meeting was a success. CSEA members were pleased with the level of participation from FTB and the responses to their questions.

In addition to the participation in the Liaison Meeting, FTB continues to meet with various CSEA chapters throughout the state to provide up-to-date tax information. It also allows FTB the opportunity to receive valuable feedback from CSEA members.

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## **Record keeping requirements**

After recent audits of personal income tax returns, we recognize that taxpayers and preparers may not be aware of the rules and regulations pertaining to the requirements of record keeping for expenses and deductions.

### **Who?**

Taxpayers need to be prepared to provide documentation that proves why they claimed what they did on the return. The burden of proof is on the taxpayer. Taxpayers must be able to prove (substantiate) certain elements of expenses to deduct them. Deductions are only allowed if they are ordinary and necessary as determined by IRC Section 162(a) and conforming CR&TC Section 17201.

### **Why keep good records?**

Good records help to prepare and support taxpayer tax return information. Whether it is business or personal, good records help when applying for a loan or for supporting an insurance claim.

Poor or no records result in missed deductions and higher taxes. If audited, poor records can result in underreported income and unsupported deductions, which will result in higher taxes and possible penalties.

### **What are good records?**

Good records support the deduction(s) taken on the tax return. Taxpayers have the right to take every deduction the law allows them. However, we have the right to say "Show me."

**What records need to be kept?**

Lack of good records show that taxpayers are not following the rules and regulations established by the law (Federal Tax Regulation 1.274-5T). Examples of records needed to support expenses and deductions are:

- **Payment records** – Provide either a canceled check or credit card payment to show that payment was made.
- **Invoices** - Along with the proof of payment, provide the invoice cross referencing the business expense.
- **Receipts** – Provide receipts that itemize the purchases and/or method of payment.
- **Mileage logs** – Keep and provide mileage records during an examination. Federal Tax Regulation 1.274-5T outlines specific requirements for mileage records.
- **Charitable cash or non-cash contributions** – Keep records of your donations. IRC Section 170 allows deductible contributions given to qualified exempt organizations.
- **Meals and entertainment** – Check Federal Tax Regulation 1.274-5T for guidance on what the taxpayer must provide. For example; there is a meeting with a client to discuss sales opportunities at a local restaurant, generally, the receipt must show the meeting time, the reason for the meeting, and who attended the meeting.

**Property/Investments**

Basic records enable the taxpayer to determine the basis or adjusted basis of their home. If claiming a carryover loss, then the records need to be kept for as long as there is a carryover balance.

**How long should I keep records?**

Generally, California's minimum statute of limitations is four years.

The length of time you should keep a document depends on the action, expense, or event. You must keep your records as long as they may be needed to prove the income or deductions on a tax return until the statute of limitations runs out for that return.

**Are there requirements on how to keep the records?**

No. In general, taxpayers may choose any record keeping system that suits their personal or business needs and that clearly shows their income and expenses. However, if the taxpayer chooses the "shoebox" method, then the taxpayer will be responsible for assembling and reconciling the records to the tax return.

For small businesses, the business checkbook is the main source of entries. We cannot over emphasize the importance of keeping business accounts separate from personal accounts, so business and personal transactions are not commingled. Computerized software packages are available that require little or no experience in bookkeeping and accounting.

FTB's mission is to collect the proper amount of tax. No more, but no less than your fair share.



## References – Internal Revenue Service Publications

[Publication 552](#) – *Recordkeeping for Individuals*.

[Publication 583](#) – *Starting a Business and Keeping Records*.

[Publication 463](#) – *Travel, Entertainment, Gifts and Car Expenses*.

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## Third party designee

Beginning with the 2008 California income tax return, individual taxpayers may now designate a friend, family member, or any other person (including a paid preparer) they choose to discuss their tax return with FTB. To authorize a third party, the taxpayer simply needs to check the “Yes” box in the signature area of the return and print the designee’s name and phone number in the space provided.

Business entity taxpayers may designate the paid preparer who signed the return by checking the “Yes” box on the return. The authorization only applies to the individual whose signature appears in the “Paid Preparer’s Use Only” section. It does not apply to the firm, if any, shown in that section.

Checking the “Yes” box allows FTB to call the designee if questions arise during the processing of the return, such as information missing from the return. Also, the designee can request information on the status of refunds or payments or respond to certain FTB notices about math errors, offsets, and return preparation.

The designee does not have the authority to receive checks, bind the taxpayer to anything such as an additional tax liability, or represent the taxpayer before the FTB. If the taxpayer wants to expand the designee’s authority then they would need to file form [FTB 3520](#), *Power of Attorney Declaration* for FTB.

The authorization will automatically end no later than the due date (excluding extensions) for filing the 2009 return. That date is April 15, 2010, for most people. The authorization may be revoked earlier than that date if FTB is notified in writing or by telephone. For more information go to FTB’s website at [ftb.ca.gov](http://ftb.ca.gov) and search for **third party designee**.

Authorizations for subsequent year returns will be made with that return following the same procedure as described above.

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## Changes for businesses

The California Legislature recently enacted Assembly Bill 1452. It contains several provisions that affect business entities and individual taxpayers with business income.

### Taxpayers with net business income of \$500,000 or more

For taxable years beginning in 2008 or 2009, taxpayers with net business income of \$500,000 or more are subject to the following:

- Limitation on utilizing business tax credits.
- Suspension of net operating loss (NOL) deductions.

For individual taxpayers, net business income is generally reported on federal Form 1040 Schedules C, E, F, or Form 4797 (as adjusted for California purposes). For business entities, all California income is included to determine if the \$500,000 threshold is met.

### **Business tax credits limitation**

If the net business income is \$500,000 or more, the maximum business tax credit allowable for the 2008 and 2009 taxable years is 50 percent of the net tax prior to the application of any credits.

Some common business credits are:

- Research and Development Credit.
- Low Income Housing Credit.
- Enterprise Zone Credit.
- Manufacture Investment Credit.

All other limitations to using the credits (such as the zone income limitation for the Enterprise Zone Credit) still apply. The business tax credits not allowed due to the limitation can be carried over to future years. Any carryover period for the credit will be extended for the years the credit was disallowed.

### **NOL deduction suspension**

Taxpayers with net business income of \$500,000 or more in taxable years beginning in 2008 and 2009 must suspend their NOL deductions for the years the threshold is met. Taxpayers may continue to compute and carryover an NOL during these years. After the suspension period, NOL deductions can again be utilized. The carryover period is extended for the suspended losses.

A new carryback provision will be adopted for all NOLs incurred on or after January 1, 2011. All taxpayers will be able to carry back NOLs for two taxable years preceding the year of the loss. The amount of the carryback is determined based on the year the NOL is incurred.

### **Limited Liability Company (LLC) Fee**

For taxable years beginning on or after January 1, 2009, the due date for the LLC fee is earlier. The LLC fee must now be estimated and paid by the 15<sup>th</sup> day of the sixth month of the **current** taxable year. A 10 percent penalty will be added to the fee for any underpayment. The

underpayment penalty does not apply if the LLC timely pays a fee equal to or greater than the total LLC fee paid for the previous taxable year.

For taxable year 2008, LLCs will continue to use [FTB Form 3537](#) to file and pay the LLC fee; however, beginning 2009, LLCs will use the new form ([FTB Form 3536](#)) to file and pay the LLC fee.

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## Guidelines for claiming head of household

The filing season is just around the corner. Many of your clients will inquire about claiming the head of household filing status. Although many of your clients think of themselves as the head of their household, they may not qualify for this filing status under state and federal tax laws. The head of household filing status is for taxpayers who are either unmarried and not a registered domestic partner (RDP) or meet the requirements to be considered unmarried or considered not in a registered domestic partnership and maintain a home for a relative who generally lived with them for more than half the year.

To qualify for this filing status the taxpayer must meet all of the following requirements as of the last day of the tax year:

- The taxpayer was unmarried and not an RDP, or met the requirements to be considered unmarried or considered not in a registered domestic partnership on the last day of the year.
- The taxpayer paid more than one-half the costs of keeping up their home for the year.
- The taxpayer's home was the main home for the taxpayer and a qualifying person who lived with the taxpayer for more than half the year. Please see the legal definitions for Parent (father or mother) and Temporary Absence in [FTB Publication 1540](#) for exceptions to this rule.
- The qualifying person was related to the taxpayer and met the requirements to be a qualifying child or qualifying relative.
- The taxpayer was entitled to a dependent exemption credit for their qualifying person. However, the taxpayer does not have to be entitled to a dependent exemption credit for their qualifying child if the taxpayer was unmarried and not an RDP, and the taxpayer's qualifying child was also unmarried and not an RDP.
- The taxpayer was not a nonresident alien at any time during the year.

There are several resources available to assist you in determining if your client qualifies for head of household filing status.

- The 2008 personal income tax instruction booklets for Forms 540/540A and 5402EZ contain the general rules for using the head of household filing status.

- For detailed information, refer to [FTB Publication 1540](#), *California Head of Household Filing Status*. [FTB Publication 1540SPAN](#) is our Spanish version.
- You can also access the same comprehensive information FTB Publication 1540 provides on our [HOH Webpage](#).
- Under the [Practitioners Corner Webpage](#), you can find more information about the topics covered in our HOH seminar, see FTB 1585, *Head of Household Workshop Supplement* and our PowerPoint presentation in the June 2008 issue of *Tax News*.

By reviewing these resources and using the self-test to determine eligibility, most taxpayers can avoid a denial of their head of household filing status, and an assessment of additional tax plus interest.

For your clients who file electronically, we highly recommend that they also file Form 4803e with their electronic return. By filing Form 4803e, most electronic filers can avoid later receiving a *HOH Audit Letter*. They may, however, still receive a follow-up audit letter if they provide incomplete or conflicting information.

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## AVAILABLE NOW:

### Our Limited-Term 2008 Nonresident Withholding Incentive Program

We are offering a 2008 Nonresident Withholding Incentive Program (NWIP) for a limited time to withholding agents who are first-time filers and remitters of nonresident, nonwage withholding. Available until March 16, 2009, eligible withholding agents may remit past-due 2008 withholding as additional compensation on behalf of the nonresident payee and pay interest. We will credit the 2008 withholding to the nonresident payee.

We offer this program in order to provide a greater degree of awareness and to enhance compliance for withholding agents who have not previously withheld. The program does not apply to real estate withholding.

#### Benefits of the program

- We will apply reasonable cause to waive the following 2008 penalties:
  - Failure to file correct information returns for 2008 [Form 592](#), *Quarterly Nonresident Withholding Statement*.
  - Failure to file correct information returns for 2008 [Form 592-B](#), *Nonresident Withholding Tax Statement*.
- We will not audit withholding for the 2007 tax year and earlier.
- You may deduct the amounts on your tax return.

#### Withholding and interest requirements

The program requires a special withholding calculation. In the program materials, we refer to this as "gross-up" quarterly compensation. We created an online calculator to assist withholding agents when calculating the gross-up quarterly compensation and amount of tax to be withheld.

The gross-up is necessary because withholding agents have not previously withheld during 2008 and the withholding constitutes additional income to the nonresident payee.

### How to participate

Submit the following to us by **March 16, 2009** (early submission is encouraged):

- A completed Form 1033, *2008 Nonresident Withholding Incentive Program Application*.
- A completed 2008 Form 592 for each quarter.
- The required withholding amount plus interest.

### For More Information

You may access news, forms, and detailed instructions at [ftb.ca.gov](http://ftb.ca.gov) and search for **withholding incentive**.

For more information, contact us by:

- Phone **888.792.4900** (toll-free) or 916.845.4900 (not toll-free).
- Email at [wscs.gen@ftb.ca.gov](mailto:wscs.gen@ftb.ca.gov). Type "NWIP" in the subject line. This is not a secured email address. Please do not send confidential information.

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## Inside FTB

### Tax Practitioner's Hotline Unit

Did you know that FTB has a call center dedicated to serving Tax Practitioners? The Tax Practitioner's Hotline Unit can be reached at **916.845.7057** for help in answering questions or resolving issues related to your clients' accounts. By calling the Tax Practitioner's Hotline Unit, you will work with staff members who specialize in working with the practitioner community.

Tax professionals may also access Personal Income Tax account information at [ftb.ca.gov](http://ftb.ca.gov) and search for "**MyFTB Account**." The taxpayer's Social Security Number and Customer Service Number (search for "Get CSN") are needed to access the service. It is available 24/7 and offers the following taxpayer information:

- Estimated tax payments.
- Recent payments applied to a balance due.
- Total current balance due.
- Summary of each balance due tax year.
- California wage and withholding information.
- FTB-issued 1099-G and 1099-INT information.

If the information needed is not available on the website or if transcript information is needed, please call the Hotline at **916.845.7057**. If a transcript is needed, please be specific regarding the requested information. If the information is needed in writing, then fax in a request to

**916.845.6377.** Please include a current Power of Attorney if we do not already have one on file; this information will be updated in our database.

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### **Package X discontinued - second notification**

As we announced in the October 2008 *Tax News: Package X*, the FTB tax forms catalogue, is going out of production this year. We are discontinuing *Package X* due to declining use and rising costs. Discontinuing the printing of this publication is also consistent with our business strategy to provide more services and information electronically.

All new 2008 and prior year tax forms and instructions typically included in *Package X* are available to download and print from our website at <http://www.ftb.ca.gov/forms/index.shtml>. An added benefit to using the online forms is that revised forms are available virtually immediately.

To request (free of charge) forms and instructions, or prior year *Package X* books, call the Tax Practitioner Hotline at **916.845.7057**, Monday through Friday, 8 a.m. to 5 p.m.

If you have any questions, the *Package X* customer service phone number is **916.845.7070** and is available until April 16, 2009.

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### **Criminal Corner**

We are committed to closing California's \$6.5 billion tax gap, defined as the difference between tax that is owed, and tax that is paid. Our special agents work cooperatively with law enforcement agencies throughout California to uncover illegal behaviors that contribute to the tax gap. These behaviors include underreporting income, overstating deductions, failing to file returns, failing to pay taxes due, and making illegal cash payments to employees.

Tax fraud is not a victimless crime. You can report suspected tax fraud on the FTB website at [ftb.ca.gov](http://ftb.ca.gov), or by calling FTB at **800.540.3453**.

### **Creston attorney sentenced to more than five years in prison for defrauding elderly clients**

Attorney Alan Courtney, 54, was convicted December 18, 2008, of defrauding senior citizens of hundreds of thousands of dollars and sentenced to five years and four month in state prison. In September, a jury convicted Courtney on four counts of filing a false tax return, two counts of theft from an elder or dependent adult and one count of forgery.

This was a joint investigation with the Santa Barbara County District Attorney's Office and FTB.

### **Sherman Oaks Attorney and five others charged with defrauding car insurers with false claims**

Six people were charged on December 11, 2008, with participating in an auto insurance fraud ring that scammed companies out of nearly \$1 million.

Attorney Hamid Taghizadeh, 46, of Sherman Oaks was the suspected ringleader of the operation. Taghizadeh allegedly paid people to bring him potential litigants to sue auto insurance companies -- an illegal practice known as "capping." The ring was busted after a California Highway Patrol officer deciphered a numerical code contained in a ledger that was seized from a Sherman Oaks attorney's office.

Taghizadeh is charged with 86 felony counts, including insurance fraud, receiving or offering compensation for referrals, grand theft of personal property, and tax evasion.

Taghizadeh's brother, Zekrollah, 53, of North Hills, is accused of helping run the insurance fraud scam and has been charged with 32 felony counts. Police are searching for Zekrollah Taghizadeh.

Two alleged cappers have also been charged. Jose Miguel Ayala, 23, of North Hollywood, and Claudia Belen Cota, 32, of Sylmar, are accused of netting more than \$270,000 in capping fees between them. Ayala, who was charged with 83 felony counts, was arrested on December 10, 2008, and released on \$190,000 bail. Cota, an administrative assistant at Taghizadeh's law office, was charged with 53 felony counts and has not been arrested yet.

The investigation into the ring began four years ago when a suspected capper was pulled over by a CHP officer. This led police to search Taghizadeh's law office and seize computers, bank statements, claim files, and the ledger with the numerical code.

Two chiropractors accused of creating false documents as part of the fraud have also been arrested. Bassam Michael Naber, 48, of Canyon Country, is charged with six felony counts and Yousef Rushdi Helo, 43, of Simi Valley, is charged with nine felony counts.

This was a joint investigation with the Los Angeles County District Attorney's Office, the California Department of Insurance, and FTB.